



THE LAW SOCIETY  
OF NEW SOUTH WALES

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14 March 2016

Mr Tim Hurst  
Acting Chief Executive  
Office of Local Government  
Locked Bag 3015  
NOWRA NSW 2541

By email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Dear Mr Hurst,

### **Local Government Act 1993 Amendments: Phase 1**

The Law Society of NSW appreciates the opportunity to comment on the Phase 1 amendments to the *Local Government Act 1993* ("Act") as set out in the document entitled *Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments* ("Explanatory Paper").

#### **1. Overview**

The Law Society considers that meaningful consultation requires the release of draft legislation and sufficient time for all stakeholders to consider it. This will enable stakeholders to properly evaluate the proposed amendments and to ensure that the proposed legislation gives effect to the stated policy objectives and does not have unintended consequences.

#### **2. Explanatory Paper**

The Explanatory Paper briefly summarises each of the proposed phase 1 amendments to the Act. The proposed amendments are presented in the form of "aspirational" statements, rather than as more concrete proposals. Some sections, such as amendments to sections 7 and 8 of the Act, may lend themselves to these types of statements. Other proposed amendments will require stakeholders to consider the actual terms of the draft legislation.

For example, question 3.7 proposes an entirely new councillor induction program. The proposal is stated in general terms so wide that some of the requirements may need to be finalised in Regulations (although this is not stated in the Paper). As the actual terms of the relevant section are not set out, it is difficult to evaluate the proposal. Many stakeholders may be prepared to endorse a proposal to increase educational opportunities for councillors generally. However, the legislation may ultimately propose something entirely different.

### **3. Online survey**

The format of the online survey provides limited space for comments. While this may assist in information gathering and collating responses, it does not allow stakeholders to prepare a complete response to the amendments, or to present alternative options. For example, there are four questions (7.1, 7.2, 7.3 and 7.4) relating to section 402 to 406 of the Act (strategic, planning and reporting of councils). The format of the survey does not facilitate alternate suggestions as to how this could be undertaken. This also applies to other questions, such as those dealing with the role and election of mayor; councillors; the general manager and the organisational structure of the council.

### **4. Draft Bill**

The proposed timeline for the reform package states that consultation on the Phase One Act amendments closes in March 2016 with the amendments being introduced into Parliament in April - June 2016. This timeline appears to suggest that this online survey is the only consultation that will be undertaken prior to the introduction of legislation.

The Law Society urges that consideration be given to release of an exposure draft Bill to enable more considered and meaningful input into the review of the Act.

If you have any questions in relation to this submission, please contact Liza Booth, Policy Lawyer, on (02) 9926 0202 or by email to [liza.booth@lawsociety.com.au](mailto:liza.booth@lawsociety.com.au).

Yours sincerely,



Gary Ulman  
**President**